

EXHIBIT C



U.S. Department of Justice

Executive Office for Immigration Review

Office of the General Counsel

5107 Leesburg Pike, Suite 1903
Falls Church, Virginia 22041

August 8, 2018

Danielle Tarantolo
New York Legal Assistance Group
7 Hanover Square, 18th Floor
New York, NY 10004

Re: FOIA 2018-35171

Dear Ms. Tarantolo,

This letter is in response to your Freedom of Information Act (FOIA) request to the Executive Office for Immigration Review (EOIR) in which you seek electronic posting of all unpublished Board of Immigration Appeals (BIA) decisions dating back to 1996.

We analyzed your request under both 5 U.S.C. § 552(a)(2) and 5 U.S.C. § 552(a)(3). As to 5 U.S.C. § 552(a)(2), there are no published rules defining decisions by the BIA as “final opinions” or “orders” requiring publication pursuant to 5 U.S.C. § 552(a)(2). Those decisions deemed to have significant precedential value are already published at <https://www.justice.gov/eoir/ag-bia-decisions>. In any case, the remedy for members of the public wishing access to records not published pursuant to 5 U.S.C. § 552(a)(2) is to request the records under 5 U.S.C. § 552(a)(3).¹

Please be advised that a FOIA request must meet certain criteria before it can be processed under the FOIA statute and applicable agency regulations. Specifically, it must reasonably describe the records being sought, such that the request must “enable a professional agency employee familiar with the subject area to locate the record with a reasonable amount of effort.”² Note that a request may fail to reasonably describe the records sought if the request is “so broad as to impose an unreasonable burden on the agency.”³

As we alerted you last month, your request, as written, is overbroad. We asked you to consider narrowing your request, but you declined.

For this reason, your request has been placed in abeyance until it meets the requirements as discussed above. Please provide additional information within 30 days. If we do not hear

¹ See, generally, *Citizens for Responsibility and Ethics in Washington vs. DOJ*, 846 F. 3d 1235 (D.C. Cir. 2017).

² *Judicial Watch v. Export-Import Bank*, 108 F. Supp. 2d 19, 27 (D.D.C. 2000).

³ *National Security Counselors v. USDOC*, 907 F. 2d 203, 209 (D.C. Cir. 1990).

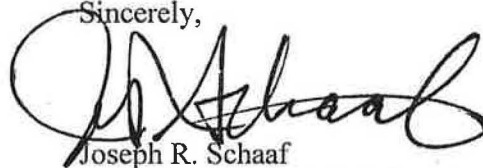
from you within 30 days, or by September 7, 2018, we may assume you no longer need this information, and close your case administratively.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. *See* 5 U.S.C. § 552(c) (2006 & Supp. IV 2010). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist. *See* <http://www.justice.gov/oip/foiapost/2012foiapost9.html>.

You may contact our FOIA Public Liaison at the telephone number 703-605-1297 for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001, or you may submit an appeal through OIP's FOIAonline portal by creating an account on the following web site <https://www.foiaonline.gov/foiaonline/action/public/home>. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

Sincerely,

A handwritten signature in black ink, appearing to read "J. Schaaf", written over a circular stamp or seal.

Joseph R. Schaaf

Chief Counsel for Administrative Law